

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto
Hearing Date: Wednesday, February 24, 2016
Place: Department B – Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**

2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare a civil minute order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.

3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.

4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.

5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

THE COURT ENDEAVORS TO PUBLISH ITS PREDISPOSITIONS AS SOON AS POSSIBLE, HOWEVER CALENDAR PREPARATION IS ONGOING AND THESE PREDISPOSITIONS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

9:30 A.M.

1. 09-13200-B-7 WADE/GAIL HANSON MOTION FOR COMPENSATION FOR
RH-8 ROBERT HAWKINS, TRUSTEES
ATTORNEY(S)
1-27-16 [94]
JUSTIN HARRIS/Atty. for dbt.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent(s) default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

2. [15-14801](#)-B-7 DAVID ESCALANTE OBJECTION TO DEBTOR'S CLAIM OF
RHT-1 EXEMPTIONS
ROBERT HAWKINS/MV 1-27-16 [[14](#)]
ROBERT HAWKINS/Atty. for mv.

3. [15-14302](#)-B-7 ANDREW/MIMI JIMERSON MOTION TO AVOID LIEN OF THE
GEG-1 BEST SERVICE CO. INC.
ANDREW JIMERSON/MV 1-6-16 [[21](#)]
GLEN GATES/Atty. for dbt.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent's default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

4. [16-10110](#)-B-7 KIO YOON MOTION FOR RELIEF FROM
SC-1 AUTOMATIC STAY
WEST RIDGE RENTALS, LLC/MV 2-9-16 [[24](#)]
SAM CHANDRA/Atty. for mv.

5. [16-10112](#)-B-7 CHANG WOO
SC-1
WEST RIDGE RENTALS, LLC/MV
SAM CHANDRA/Atty. for mv. MOTION FOR RELIEF FROM
AUTOMATIC STAY
2-4-16 [[23](#)]
6. [16-10115](#)-B-7 KYOUNG HAN
SC-1
WEST RIDGE RENTALS, LLC/MV
SAM CHANDRA/Atty. for mv. MOTION FOR RELIEF FROM
AUTOMATIC STAY
2-9-16 [[24](#)]
7. [14-11117](#)-B-7 BILLY WILSON
JES-1
JAMES SALVEN/MV MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH BILLY WILSON
1-25-16 [[22](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. It appears that the factors identified in *Martin v. Kane (In re A & C Props.)*, 784 F.2d 1377, 1381 (9th Cir.1986), have been satisfied. Accordingly, the respondent(s) default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

8. [15-13617](#)-B-7 JOSE/YOLANDA GUTIERREZ
MAZ-1
JOSE GUTIERREZ/MV
MARK ZIMMERMAN/Atty. for dbt. MOTION TO CONVERT CASE FROM
CHAPTER 7 TO CHAPTER 13
1-8-16 [[19](#)]

The motion will be denied without prejudice. The motion was not supported by evidence of the debtors' good faith as required by *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365 (2007). The declaration by debtors' counsel contains only legal conclusions and virtually no admissible evidence. The record shows that the chapter 7 trustee filed a notice of assets on October 26, 2015, which is not addressed by the debtor. No appearance is necessary.

9. [15-14817](#)-B-7 ELENA CORPUS
JES-1
JAMES SALVEN/MV OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
1-15-16 [[14](#)]

The motion will be denied as moot. The trustee's objection to the debtor's claim of exemptions was based on the failure to file a spousal waiver of exemptions. The record shows that waiver has now been filed and no other relief appears necessary. No appearance is necessary.

10. [11-61329](#)-B-7 SHERREY DEAVER
UST-2
TRACY DAVIS/MV

MOTION TO EXTEND TIME TO FILE A
MOTION TO DISMISS CASE UNDER
SEC. 707(B), AND/OR MOTION TO
EXTEND DEADLINE TO FILE A
COMPLAINT OBJECTING TO
DISCHARGE OF THE DEBTOR
1-26-16 [[114](#)]

PETER BUNTING/Atty. for dbt.
ROBIN TUBESING/Atty. for mv.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent's default will be entered and the motion will be granted without oral argument for cause shown. The time to file a motion to dismiss the case and/or a complaint to deny the debtor's discharge is extended up to and including March 25, 2016, as to the U.S. Trustee and the chapter 7 trustee only. The U.S. Trustee shall submit a proposed order. No appearance is necessary.

11. [14-13430](#)-B-7 STEPHEN/JENNIFER FORD
PFT-4
PETER FEAR/MV
MICHAEL ARNOLD/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

MOTION TO SELL
2-3-16 [[64](#)]

12. [12-19945](#)-B-7 COMAC BAR & GRILL, INC.
RHT-4
ROBERT HAWKINS/MV
DAVID JENKINS/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

MOTION TO SELL
1-19-16 [[53](#)]

This motion to sell assets was fully noticed in compliance with the Local Rules and there is no opposition. However, the terms of payment are not disclosed in the motion. The motion will be granted without oral argument for cause shown, provided the terms of the transaction require payment in full, to be received by the trustee within 30 days of court approval. The time for payment shall be set forth in the court's order. Unless the court orders otherwise, the trustee may not release any property of the bankruptcy estate unless and until the purchase price has been paid in full. If the agreed terms permit payment to be made in installments, or after 30 days, the motion will be denied based on failure to disclose a material term of the transaction. The trustee shall submit an appropriate order in conformity with this ruling. No appearance is necessary.

13. [15-14552](#)-B-7 MARTIN/DAWN NORDIN
EAT-1
THE BANK OF NEW YORK MELLON/MV
PATRICK KAVANAGH/Atty. for dbt.
EDWARD TREDER/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-21-16 [[12](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The debtors list their intention as surrender of the subject property. The debtors' default will be entered and the motion will be granted without oral argument for cause shown. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code 2923.5 to the extent that it applies. If the notice and motion requested a waiver of Federal Rules of Bankruptcy Procedure 4001(a)(3), that relief will be granted. Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. §506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

14. [15-13455](#)-B-7 HIROAKI TERANISHI
PFT-3
PETER FEAR/MV
ROSALINA NUNEZ/Atty. for dbt.
PETER FEAR/Atty. for mv.

MOTION TO SELL
1-27-16 [[37](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent(s) default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

15. [15-13455](#)-B-7 HIROAKI TERANISHI
PFT-4
PETER FEAR/MV

ROSALINA NUNEZ/Atty. for dbt.
PETER FEAR/Atty. for mv.

MOTION TO SELL AND/OR MOTION
FOR COMPENSATION FOR GUARANTEE
REAL ESTATE, BROKER(S)
2-3-16 [[41](#)]

16. [15-14955](#)-B-7 MARY RODRIGUEZ
APN-1
SANTANDER CONSUMER USA INC./MV
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-20-16 [[22](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The debtor(s) default will be entered and the motion will be granted without oral argument for cause shown. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code 2923.5 to the extent that it applies. If the notice and motion requested a waiver of Federal Rules of Bankruptcy Procedure 4001(a)(3), that relief will be granted. Unless the court expressly orders otherwise, the proposed order shall not include any other relief. If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. §506(b), or applicable nonbankruptcy law, must be separately noticed and separately briefed with appropriate legal authority and supporting documentation. No appearance is necessary.

17. [09-19960](#)-B-7 VICTOR FRANCO AND MARIA
JES-2 MELENDEZ
JAMES SALVEN/MV
EDDIE RUIZ/Atty. for dbt.

MOTION FOR COMPENSATION FOR
JAMES E. SALVEN, ACCOUNTANT(S)
1-22-16 [[72](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent(s) default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

18. [09-16769](#)-B-7 KRISTINA OLVERA
JES-1
JAMES SALVEN/MV
D. HARELIK/Atty. for dbt.
RESPONSIVE PLEADING

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
1-13-16 [[22](#)]

19. [14-11970](#)-B-7 FELIX HARO CONSTRUCTION, MOTION TO PAY
RH-3 INC., A CALIFORNIA 1-27-16 [[47](#)]
JAMES SALVEN/MV
HAGOP BEDOYAN/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent(s) default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

20. [14-11970](#)-B-7 FELIX HARO CONSTRUCTION, MOTION FOR COMPENSATION FOR
RH-4 INC., A CALIFORNIA ROBERT HAWKINS, TRUSTEES
ATTORNEY(S)
1-27-16 [[52](#)]
HAGOP BEDOYAN/Atty. for dbt.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent(s) default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

21. [12-17580](#)-B-7 XTECH INDUSTRIES, INC. MOTION FOR COMPENSATION BY THE
KDG-4 LAW OFFICE OF KLEIN, DENATALE,
GOLDNER, COOPER, ROSENLIEB &
KIMBALL, LLP FOR LISA HOLDER,
TRUSTEES ATTORNEY(S)
2-5-15 [[98](#)]
BENJAMIN SHEIN/Atty. for dbt.
LISA HOLDER/Atty. for mv.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent(s) default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

22. [13-13180](#)-B-7 MARK MURANE MOTION TO AVOID LIEN OF
DEB-3 DISCOVER BANK
MARK MURANE/MV 2-2-16 [[30](#)]
DONNY BRAND/Atty. for dbt.

This motion has been rescheduled to March 9, 2016, at 9:30 a.m., by order of the court. No appearance is necessary at this hearing.

23. [14-14998](#)-B-7 SILARDO/OLIVIA CHAVANA
RH-6

MOTION FOR COMPENSATION FOR
ROBERT HAWKINS, TRUSTEES
ATTORNEY(S)
1-27-16 [[106](#)]

MARK ZIMMERMAN/Atty. for dbt.

The motion will be continued to March 23, 2016, at 9:30 a.m., for the submission of additional evidence showing the fees charged for services rendered by category. This evidence is to be filed on or before March 16, 2016. The court will prepare a minute order. No appearance is necessary.

24. [15-14799](#)-B-7 ALMA FUENTES
RHT-1

OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
1-21-16 [[15](#)]

No appearance is necessary. The debtor shall attend the meeting of creditors rescheduled for March 3, 2016, at 11:00 a.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtor(s) discharge or to move for dismissal of the case under section 707(b) is extended to 60 days after the conclusion of the meeting of creditors. The court will issue a civil minute order.

11:00 A.M.

1. [15-13234](#)-B-7 ROBERT/ANGIELINA SOTO REAFFIRMATION AGREEMENT WITH
MAZ-1 HARLEY-DAVIDSON CREDIT
CORPORATION
12-7-15 [[21](#)]

MARK ZIMMERMAN/Atty. for dbt.
2. [15-14844](#)-B-7 JUANITA GRACIA PRO SE REAFFIRMATION AGREEMENT
WITH MERCED SCHOOL EMPLOYEES
FCU
1-27-16 [[18](#)]
3. [15-14960](#)-B-7 RENEE PERRY REAFFIRMATION AGREEMENT WITH
FORD MOTOR CREDIT COMPANY
1-27-16 [[13](#)]

GEORGE LOGAN/Atty. for dbt.

The hearing will be dropped from calendar. The court intends to deny approval of this reaffirmation agreement. Debtor was represented by counsel when she entered into the reaffirmation agreement. Pursuant to 11 U.S.C. §524(c)(3), if the debtor is represented by counsel, the agreement must be accompanied by an affidavit of the debtor's attorney attesting to the referenced items before the agreement will have legal effect. *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok, 2009) (emphasis in original). The reaffirmation agreement, in the absence of a declaration by debtor's counsel, does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable. In addition, both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. No appearance is necessary.

1:30 P.M.

1. [14-16135](#)-B-7 GILBERT FLORES
 [15-1064](#)
 FORD MOTOR CREDIT COMPANY V.
 FLORES
 AUSTIN NAGEL/Atty. for pl.
 RESPONSIVE PLEADING

CONTINUED PRETRIAL CONFERENCE
RE: COMPLAINT
5-20-15 [[1](#)]

2. [15-13337](#)-B-7 HAROUT GEZALYAN
 [15-1131](#)
 BANDA V. GEZALYAN

ORDER TO SHOW CAUSE RE
DISMISSAL OF ADVERSARY
PROCEEDING
1-15-16 [[7](#)]

3. [14-12570](#)-B-13 STEPHEN/CAROL CHOAT
 [16-1019](#)
 CHOAT ET AL V. CHEVRON VALLEY
 CREDIT UNION ET AL
 D. GARDNER/Atty. for pl.

SCHEDULING CONFERENCE RE:
COMPLAINT
2-8-16 [[1](#)]

4. [09-60394](#)-B-13 DANNY/ESTHER SCHWANDT
 [15-1143](#)
 SCHWANDT, SR. ET AL V.
 SANTANDER CONSUMER USA INC.
 GABRIEL WADDELL/Atty. for pl.

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
11-24-15 [[1](#)]

This matter will be dropped from calendar without a disposition. The adversary proceeding has already been dismissed. No appearance is necessary.